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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,906	01/16/2004	Richard P. Ward	60,152-1017	7066

27305 7590 09/07/2005

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EXAMINER

SAETHER, FLEMMING

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 09/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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## Office Action Summary

Application No.

10/758,906

Applicant(s)

WARD ET AL.

Examiner

Flemming Saether

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 22 and 23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☒ Claim(s) 12 and 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### ***Claim Objections***

Claims 1 and 12 is objected to because of the following informalities: in claim 1, line 10, --first-- should be inserted before "plurality" and similarly, in claim 12, next to last line, --second-- should be inserted before "plurality" for proper antecedent basis. In view of the noted objections, applicant should further review all the claims to ensure the plurality of locking elements are preceded by the correct "first" or "second". Appropriate correction is required.

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1, 2-11, 13-17 and 19-21 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 27-31 and 69-75 of copending Application No. 10/439,526. Although the conflicting claims are not identical, they are not patentably distinct from each other

because the claims of both applications claim the same features anti-rotation feature with the claims instant application being broader.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takahashi (US 5,340,251) in view of Mitts (US 6,318,940). Takahashi discloses a self-attaching fastener comprising a central portion (14) surrounded by a flange (29) having an annular groove (16) defined by inner (18) and outer (20) walls inclined towards each other so as to define a restricted opening. The groove include a planer bottom wall (26) including a plurality of anti-rotation elements (24) but, does not disclose the anti-rotation elements formed as a first plurality of elements having a top face above the bottom surface and a second plurality elements having a top face below the bottom surface of the groove. Mitts also discloses a self-attaching fastener including a plurality of circumferentially spaced locking elements (22). However, in Mitts, the locking elements include a plurality of first plurality of elements (at 32) having a top face above the bottom surface and a second plurality of elements (at 33) having a top face below

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the bottom surface of the groove. At the time, the invention was made, it would have been obvious for one of ordinary skill in the art to replace the locking elements of Takahashi with the locking elements as disclosed in Mitts because the locking elements as disclosed in Mitts would provide improved locking against rotation for receiving a greater torque by having a greater number of circumferentially directed surfaces to counter rotation.

Claims 2 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over modified Takahashi as applied to claims 1 and 3 above, and further in view of Olson (US 2,037,586). Olson discloses anti-rotation elements similar to those disclosed in Mitts but, in Olson the first elements (38) which have a top face above the bottom surface alternate with the second elements (46) which have a top surface below the bottom surface. Olson also discloses the angle of inclination of the top surfaces to be between 5 and 15 degrees. At the time the invention was made, it would have been obvious for one of ordinary skill in the art to form the anti-rotation elements of modified Takahashi as shown in Olson because the anti-rotation element as disclosed in Olson would be easier to manufacture and deform into the substrate since they do not require as much deformation of material

***Allowable Subject Matter***

Claim 18 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the

base claim and any intervening claims. Furthermore, other than applicant's prior application, the prior art does not disclose the orientation of the first and second anti-rotation elements as related to the inner, outer and bottom side walls.

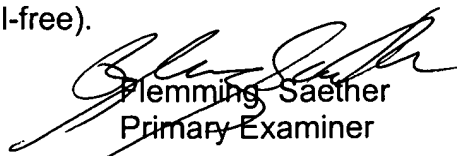
### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Flemming Saether whose telephone number is 571-272-7071. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Flemming Saether  
Primary Examiner